

**REMARKS**

Claims 1-7, 9-11 and 14-31 are currently pending, claims 24 and 27 being withdrawn. By this Amendment, claims 1, 5, 9, 10, 17-23, 25, 26 and 28 are amended, claims 8, 12 and 13 are canceled without prejudice to or disclaimer of the subject matter recited therein, and claims 29-31 are added. Support for the amendments to claims 1, 21, 25, 26 and 28 can be found at least in original claim 13. Claims 5, 9, 10 and 17-23 are amended for form. Support for new claims 29-31 can be found at least at page 16, lines 8-22 and Fig. 5. No new matter is added.

Claims 1-23, 25, 26 and 28 are rejected under 35 U.S.C. §102(b) over Kishimoto (JP 11-240226). The rejection is respectfully traversed.

Kishimoto does not teach every claimed feature of independent claims 1, 21, 25, 26 and 28. For example, Kishimoto does not teach "an index unit that determines a group name for the separation based on a printing condition and a criterion, and determines the index image representing the group name to be printed on the record medium together with the image by the image print unit; and a changing unit that changes the criterion based on a command inputted to the print controller," as recited in independent claim 1 and as similarly recited in independent claims 21, 25, 26 and 28 (emphasis added).

The Office Action asserts that Figs. 36 and 47, and paragraphs [0116] - [0120] of Kishimoto discloses the above feature (see Office Action, page 4, rejecting claim 13 based on the above disclosure of Kishimoto). However, these figures and passages of Kishimoto merely relate to an embodiment in which the toner amount is automatically calculated for printing a color image. In particular, the above passage of Kishimoto teaches that the total amount for one pixel is increased for color image printing relative to monochrome printing (see Kishimoto, paragraph [0114]). The image printing apparatus of Kishimoto thereby determines an index image while taking the above color printing situation into consideration

(see paragraph [0114]). However, the above passage of Kishimoto, and the entire Kishimoto reference, is silent regarding whether the criterion for determining the above index image is changed based on an inputted command. Therefore, Kishimoto does not teach the features of independent claims 1, 21, 25, 26 and 28.

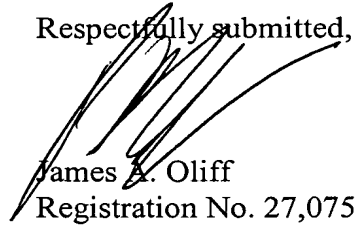
In paragraph [0139] of Kishimoto, various recording medium selection conditions are disclosed. For example, as disclosed at paragraph [0139] of Kishimoto, if the number of pixels is less than 10,000, "high-quality paper" is used as a print index; if the number of pixels is less than 20,000, "coarse paper" is used as a print index; and if the number of pixels is more than 20,000, "toilet paper" is used as a print index. However, even in the above passage, Kishimoto still fails to disclose the above criterion for determining such an index image is changed based on an inputted command. Therefore, Kishimoto does not teach the features of independent claims 1, 21, 25, 26 and 28.

Therefore, for at least these reasons, independent claims 1, 21, 25, 26 and 28 are patentable over Kishimoto. Claims 2-7, 9-11, 14-20, 22 and 23, which various depend from independent claims 1 and 21, are also patentable for at least their dependencies on independent claims 1 and 21, as well as for the additional features they recite. Applicant thus respectfully requests withdrawal of the rejection.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Patrick T. Muffo  
Registration No. 60,342

JAO:PTM/sld

Date: June 2, 2009

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 320850**  
**Alexandria, Virginia 22320-4850**  
**Telephone: (703) 836-6400**

|   |
|---|
| <p><b>DEPOSIT ACCOUNT USE<br/>AUTHORIZATION</b><br/>Please grant any extension<br/>necessary for entry;<br/>Charge any fee due to our<br/>Deposit Account No. 15-0461</p> |
|---|